



W.P.(MD)No.8704 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.8704 of 2019

and

W.M.P.(MD)Nos.6766 & 6767 of 2019

K.Gnanasekaran

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Tamilnadu, Chennai – 600 004.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Deputy Commissioner of Police,
Law and Order, Madurai City,
Madurai.

4.The Assistant Commissioner of Police,
Anti Dowry Cell, Madurai City,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order of the punishment passed by the third respondent in D1 (3)/PR No.57/16 dated 28.01.2017 confirmed by the first respondent proceedings in RC.No.174007/AP.2(3)/2018 dated 06.01.2019 and quash the same within the period stipulated by this Court.



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For Petitioner : Mr.R.Velmurugan

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

ORDER

Under assail is the punishment order passed by the third respondent dated 28.01.2017 and the proceedings dated 06.01.2019 issued by the first respondent.

2.The case of the petitioner is that he was enlisted on 25.10.1993 as Grade II Police Constable in Tamil Nadu Special Police and thereafter, promoted as Grade I Constable in the year 2003 and subsequently, promoted as Head Constable in the year 2008. He had obtained two medals from the Hon'ble Chief Minister, Tamilnadu for his service during 2004 and 2013. A charge memo was issued on 05.07.2016 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955. He submitted his explanation on 03.11.2016. Charge was that one Prem @ Prem Anand is a political man and that the petitioner having friendship and in order to extract money, he had illegally helped and assisted the said Prem @ Prem Anand in preparing



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petition under RTI Act. The said Prem @ Prem Anand with the petition threatened and blackmailed one Mr.Srinivasan, owner of Sabarees Hotel and south RTO Mr.Singaravelu to extract money. Therefore, two cases were registered before S.S.Colony Police Station, Madurai in Cr.No.235 of 2016 under Sections 465, 385 and 506(i) IPC and in Cr.No.237 of 2016 under Sections 465 and 385 IPC. The Assistant Commissioner of Police, Anti Dowry Cell, Madurai City was appointed as Enquiry Officer and Enquiry Officer held that charges levelled against the petitioner stands proved, by his minute dated 14.12.2016. The Enquiry Officer had not conducted the enquiry properly. In the enquiry, though P.W.1 Prem had admitted that the petitioner had not helped and assisted in preparing the petition under RTI Act and also P.W.1 admitted that he had not received any bribe from the owner of Sabarees Hotel and RTO and that the petitioner did not demand the bribe. Therefore, the charge against petitioner goes. Based on enquiry report, the third respondent had passed punishment order, namely, postponement of next increment for a period of three years, which shall operate to postpone his future increments. He preferred an appeal before the second respondent on 06.03.2017 and the same had been rejected by an order dated 23.10.2017. He had filed review before the first respondent and the same had been rejected by an



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order dated 06.01.2019. The criminal case in C.C.No.394 of 2016 wherein the petitioner is arrayed as accused No.3 and the said case ended in acquittal on 22.05.2017. As far as Cr.No.235 of 2016 is concerned, final report not yet filed. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that during enquiry P.W.1 categorically admitted that the petitioner had not helped and assisted for preparing petition under RTI Act. Further, P.W.1 also admitted that he had not received bribe from the Hotel owner and RTO and therefore, petitioner did not demand any bribe. He would submit that during enquiry, P.W.1 also admitted S.S.Colony Police had pressurized P.W.1 to give confession as against the petitioner. Without considering evidence adduced in the departmental proceedings, enquiry officer, without applying his judicial mind, gave a conclusion that charge levelled against the petitioner stands proved and the third respondent, without applying his mind, has imposed punishment. He would submit that the third respondent failed to see that no witnesses, namely P.W.1 to P.W.8 had spoke about the involvement of the petitioner in preparing petitions under RTI Act along with P.W.1. Therefore, the enquiry and imposition of punishment is intentional. He would submit that the first



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respondent failed to see that two criminal cases were registered against Prem and others and petitioner's name does not find place in FIR, particularly, C.C.No.394 of 2016 on the file of the Judicial Magistrate No.V, Madurai, ended in acquittal by judgment dated 22.05.2017. As far as Cr.No.235 of 2016 is concerned, the Police has not chosen to file charge sheet. The respondents did not consider the explanation, evidence and no witness or evidence were available to speak about the charge or to prove the delinquency of the petitioner and hence, the order of punishment is liable to be set aside.

4.Per contra, the learned Additional Government Pleader appearing for the respondents would submit that there is no procedural violation while conducting departmental proceedings and the petitioner very well participated in the enquiry proceedings. He would submit that the punishment imposed on the petitioner is proportionate to the misconduct proved on the petitioner.

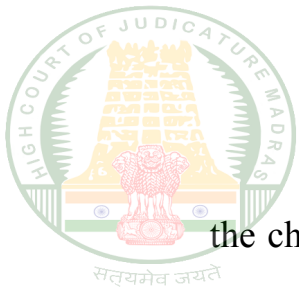
5.This Court has considered the submissions made on either side and perused the available records.



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6.It is seen from the records that charge memo was issued on 05.07.2016 under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955. Charge was that one Prem @ Prem Anand is a political man and that the petitioner having friendship and in order to extract money, he had illegally helped and assisted the said Prem @ Prem Anand in preparing petition under RTI Act. The said Prem @ Prem Anand with the petition threatened and blackmailed one Mr.Srinivasan, owner of Sabarees Hotel and south RTO Mr.Singaravelu to extract money. Therefore, two cases were registered before S.S.Colony Police Station, Madurai in Cr.No.235 of 2016 under Sections 465, 385 and 506(i) IPC and in Cr.No.237 of 2016 under Sections 465 and 385 IPC. It is also seen that the petitioner was shown as accused No.3 in C.C.No.394 of 2016 on the file of the Judicial Magistrate No.V, Madurai and he was acquitted by judgment dated 22.05.2017.

7.In the departmental enquiry, on the side of the department as many as 8 witnesses were examined and 16 documents were marked. The petitioner has also chosen to cross examine the department witnesses. After enquiry, the Enquiry Officer came to a conclusion that



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the charge levelled against the petitioner stands proved. After receiving the copy of the enquiry report, the petitioner chosen to submit his further representation. Thereafter, the third respondent consider the material placed before the enquiry officer and further representation submitted by the petitioner, passed a punishment order namely, postponement of next increment for a period of three years, which shall operate to postpone his future increments. Thereafter, the petitioner preferred an appeal before the second respondent on 06.03.2017 wherein it has been stated that he had not demanded and accepted money from RTO and the owner of Sabarees Hotel. It is also stated that there is no liaison with Prem, P.W.1 and that the petitioner is only an informer. The second respondent rejected the appeal on the following terms:-

4) I have gone through the relevant P.R. file and appeal petition carefully The appellant pleaded that he had not demanded and accepted money either from the owner of the Safarees Hotel and RTO Singaravelu. He further added that PWs 1 to 8 have not corroborated the demand and acceptance of money. He stated that he has no liason with PWI Prem and he is only an informer. The contents of the appeal are not agreeable. PW-1 Prem Prem Ananth has specifically stated that the appellant prepared the complaint and the witness had corroborated the same version during his deposition during oral



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enquiry. The appellant had been dealt with for his act of preparing complaint in favour of PW1 Prem Prem Ananth for his misbehavior towards the owner of Safarees Hotel and RTO Singaravelu. The appellant's version is devoid of merits. The appellant was rightly punished. Hence, I do not want to interfere with this and the punishment is not excessive for the delinquency committed. Hence, his appeal is hereby rejected.

Thereafter, the petitioner filed a review petition before the first respondent on 14.03.2018 for cancellation of punishment and the same was also rejected.

8.It is pertinent to mention that the Hon'ble Supreme Court of India, in a judgment reported in ***Aironline 2020 SC 795*** in a case of ***State Of Rajasthan vs Heem Singh*** wherein it has been held that “the verdict of the criminal trial did not conclude the disciplinary enquiry. The disciplinary enquiry was not governed by proof beyond reasonable doubt or by the rules of evidence which governed the criminal trial”. It is relevant to refer the judgment of the Hon'ble Supreme Court of India in a case of ***Union of India & Ors Vs. P.Gunasekaran*** wherein laid down preponderance of probabilities for exercising of judicial review. The Hon'ble Supreme Court held as follows:-



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12.Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;*
- b. the enquiry is held according to the procedure prescribed in that behalf;*
- c. there is violation of the principles of natural justice in conducting the proceedings;*
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;*



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h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

i. the finding of fact is based on no evidence.

13. Under Article 226/227 of the Constitution of India, the High Court shall not: (i) re-appreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

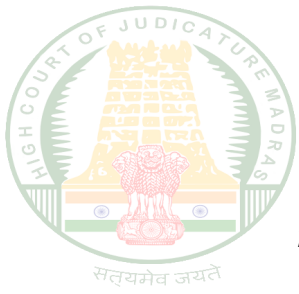
(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

9. It is also pertinent to refer the judgement of the Hon'ble Supreme Court in **2022 Livelaw (SC) 304** in a case of **State of Karnataka & Anr.**

Vs. Umesh wherein it has been stated as follows:-

17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its



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review to determine whether: (i) the rules of natural justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (vi) the penalty is disproportionate to the proven misconduct.

10.By keeping in mind on the above tests, in the instant case on hand, none of the above tests for attracting to interference of order impugned. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are substantiate with reference to the evidence which was adduced during the enquiry. It is settled law that the acquittal by a criminal Court does not preclude a departmental enquiry against the delinquent officer. The object of a Departmental enquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. It is seen from the records that an enquiry was conducted in adherence to the statutory provisions and principles of natural justice. The charge is specific, definite and giving details of the incident, which formed the basis of charge. The punishment imposed is proportionate to



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the gravity of the misconduct. This Court is of the view that there is no reasons to interfere with the order impugned. There is no merit in this writ petition and the same is liable to be dismissed.

11.In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
gns

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M.JOTHIRAMAN, J.

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